

April 23, 2015

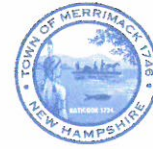
POTENTIAL COUNCIL ACTION ITEMS (No particular order, not exhaustive)

- **1/29/15** - Continue to press KM for a Public Meeting in Merrimack – [Meeting held 3/26/15](#)
- **1/29/15** - Place an action item on Feb 12th agenda requesting the council to take no action regarding request from Kinder Morgan to survey town-owned parcels until Merrimack Public Meeting - [Completed](#)
- **1/29/15** - Place NED Pipeline Update on future council agendas – [Completed 2/12/15](#)
- **1/29/15** - Update list of properties that directly abut proposed pipeline route with a list of properties that fall into pipeline hazard zone - [Completed](#)
- **1/29/15** - Consider consultant to:
 - Research communities' property value effects of recent pipeline installations – [Engaged Avitar](#)
 - Evaluate impacts on the sewer line – [Engaged Wright Pierce](#)
- **1/29/15** - Support Conservation Commission's efforts to update data for environmental impacts on HHNP and Gilmore Woods - [Ongoing](#)
- **1/29/15** - Support Merrimack Village District's efforts to protect Wellhead Protection Zone and Aquifer Protection Zone - [Ongoing](#)
- **1/29/15** - Request KM list of abutters notified of project and requests for permission to survey – [Responded that by FERC rules they cannot provide a butter list](#)
- **1/29/15** - Work with property owners to develop a list of who has been notified of the project and requests for surveys
- **1/29/15** - Maintain contacts at FERC and NH Congressional delegation – [Ongoing \(NH delegation attends Managers meetings\)](#)
- **1/29/15** - Consult with PSNH (Eversource) regarding where they are in the process with KM and PUC – [No response](#)
- **1/29/15** - Consult and share information with large companies (A-B/InBev, Elbit, Premium Outlets, Fidelity, PanAm, PSNH, Pennichuck, etc.) – [Meeting held 2/26/15; will be ongoing](#)
- **2/12/15** – Section 106 of the National Historic Preservation Act of 1966 (NHPA) – [Pending formal application](#)
- **3/26/2015** - Council voted to stand in strong opposition to the NED pipeline - Send letter to Governor/Federal Delegation
 - Letter to Governor – [Letter sent 4/14/15](#)
 - Letter to Congressional Delegation - [Letter sent 4/14/15](#)
 - Letter to Local Reps - [Letter sent 4/14/15](#)

▪-Original
▪-Update
▪-Completed
▪-Town Manager Update

TOWN OF MERRIMACK

Office of the Town Manager



DATE: April 17, 2015

MEMORANDUM

SUBJECT: TGP Attorney Amended Survey Agreement

Attached is the Town / TGP survey agreement with Kinder Morgan's mark ups as well as an email exchange that includes Attorney Joanna Tourangeau's recommended changes to the agreement.

ACCESS AGREEMENT RE FIELD SURVEYS

The Town of Merrimack ("Town") received four requests for access for Tennessee Gas Pipeline, LLC or its designated contractors (hereinafter referred to as "TGP") to access the following properties:

- (1) Horse Hill Nature Preserve (Map/Block/Lot 3B-164) deeded from NasTam Associates to the Town of Merrimack by deed dated July 19, 2002 and recorded in the Hillsborough County Registry of Deeds in Book 6670, Page 2730;
- (2) Gilmore Woods Memorial Forest (Map/Block/Lot 3C-73) deeded from Constance M. Heath to the Town of Merrimack by deed dated December 30, 1997 and recorded in the Hillsborough County Registry of Deeds in Book 5892, Page 0204;
- (3) 10 Green's Pond (Map/Block/Lot 3C-41) deeded from Digital Equipment Corporation to the Town of Merrimack by deed dated January 26, 1978 and recorded in the Hillsborough County Registry of Deeds in Book 2608, Page 637; and
- (4) Sewer Buffer (Map/Block/Lot 3C-40-2)

(these four parcels are referred to herein together as the "Property") in order for TGP or its designated contractors to perform field surveys necessary for the above captioned FERC Docket No. PF14-22 environmental screening.

The Town consents to these requests for access on the following terms:

The Town will permit, at any given time, no more than four (4) employees and consultants of the TGP the right, but not the obligation, of ingress to, egress from, and access under, above, and through, the Property by foot and limited vehicular access for the purpose of allowing TGP to conduct nonintrusive field surveys.

The Town reserves the right to prevent activity that, in its reasonable judgment, could result in damage or injury or threaten interference with activities of the Town. TGP shall have no access to buildings on the Property.

Before undertaking any activity on the Property, TGP shall give the Town reasonable advance notice no less than forty-eight (48) hours in advance, by telephone conversation with Eileen Cabanel at (603) 424-2331, or in writing, of planned activity, including notice of the areas of the Property that are expected to be accessed. TGP shall also provide the Town with reasonable advance notice of the name and contact information for each and every individual exercising rights under this Agreement. The Town shall be present during any TGP activities conducted on the Property. Upon proper notification of TGP's planned schedule, should the Town not be present, then TGP shall not be restricted to start its survey activities on any given day.

Comment [JDH1]: We do not want their schedule to interfere with ours

Access shall occur solely between the dates of May 31, 2015 and November 30, 2015. This Agreement shall automatically terminate on November 30, 2015 unless an extension is approved in writing by the Town and TGP.

TGP shall reasonably cooperate with the Town regarding all activities that are conducted on the Property. TGP shall bear the responsibility of determining the location of any utilities. In conducting all activities TGP shall exercise due care and shall ensure that each and every individual accessing the Property under this Agreement behaves in a professional manner.

After completing the activities contemplated by this contract, TGP shall ensure removal of their equipment and shall restore any part of the Property that was affected by its activities to a condition that is substantially similar to the condition of the Property at the time immediately preceding the commencement of said activities.

The Town shall receive and have reasonable opportunity to review and comment upon any report or other documentation of the results of TGP activities under the Agreement ~~prior to finalization of any such report or other documentation.~~

Comment [JDH2]: This will be very hard to do
What do we do if we do not like their comments
Can we let the FERC process control this?

TGP shall indemnify and hold harmless the Town from (a) any damage to the Property, (b) damage to any property of any person not a party to this Agreement, or for bodily injury to any person or third party that is caused by TGP as a result of the activities of TGP related to activities contemplated by this Agreement. The Town shall promptly notify TGP in writing of any damage to the Property that has allegedly been caused by any TGP pursuant to any activity of TGP on the Property. Before it will be liable to provide any monetary payment to the Town for any indemnified damage to the Property, TGP shall have the right to restore or repair the damage to its prior condition, using contractors and consultants selected by them and reasonably satisfactory to the Town. TGP shall indemnify the Town for TGP noncompliance with this Agreement and this indemnification shall survive termination of the Agreement.

EXECUTED: _____, 2015.

TOWN OF MERRIMACK:

By: _____

Print Name: _____

Title: _____

TENNESSEE GAS PIPELINE
COMPANY, [LLC](#):

By: _____

Print Name: _____

Title: _____

Becky Thompson

From: Eileen Cabanel
Sent: Monday, April 13, 2015 5:09 PM
To: Becky Thompson
Subject: Fw: TGP Attorney Amended Survey Agreement

Sorry. I just missed it...

Sent from my Verizon 4G LTE Smartphone

----- Original message-----

From: Joanna B. Tourangeau
Date: Mon, Apr 13, 2015 4:37 PM
To: Eileen Cabanel;
Subject: RE: TGP Attorney Amended Survey Agreement

No she did not- but I have taken a look. I would reject their change re Town personnel being present and accept their other changes and send it back to them. They are allowing review of their assessment- just not until it's final. Maybe accept that change but add "in advance of filing with FERC or any other entity" to the end of the prior sentence?

From: Eileen Cabanel [<mailto:ecabanel@merrimacknh.gov>]
Sent: Monday, April 13, 2015 3:13 PM
To: Joanna B. Tourangeau
Cc: Town Council
Subject: FW: TGP Attorney Amended Survey Agreement

Hi Joanna,

Did you get this from Becky? This is KM's suggested edits to the survey documents. We will not move from the position of requiring a town representative to accompany them when they survey the property. Also, I don't see why they won't allow us to read their assessment. We don't have to agree to their document. We can just send a rebuttal.

Eileen

Eileen Cabanel

Town Manager
Town of Merrimack
6 Baboosic Lake Road
Merrimack, NH 03054
ecabanel@merrimacknh.gov

From: Becky Thompson
Sent: Wednesday, April 01, 2015 8:31 AM
To: Eileen Cabanel
Subject: TGP Attorney Amended Survey Agreement

Hi Eileen,

I sent the attached to Joanna yesterday afternoon for her review.

Becky Thompson
Executive Secretary
Town of Merrimack

NH Municipal Pipeline Coalition

May 6, 2015

To: [Governor, Congressional delegation, NH Senators and Reps.]

Re: Kinder Morgan/Tennessee Gas Pipeline Co.
Federal Energy Regulatory Commission Docket No. PF-14-22-00

Dear: [Name]

Amherst
Brookline
Fitzwilliam
Greenville
Litchfield
Mason
Merrimack
Milford
Pelham
Richmond
Rindge
Temple
Troy

We are elected officials and/or town administrators from 13 New Hampshire towns affected by the proposed Northeast Energy Direct (NED) high-pressure gas pipeline project. The pipeline, proposed by Kinder Morgan Company and Tennessee Gas Pipeline Company, originates in New York, passes through western Massachusetts, and then traverses 17 New Hampshire towns before terminating in Dracut, Massachusetts.

We believe that the proposed NED pipeline is wrong for New Hampshire, is unnecessary to meet the projected energy needs of New England, is an inappropriate use of eminent domain for the benefit of a private corporation, and is an insult to the conservation efforts of the state, municipalities, and conservation easement holders given the existence of better alternatives.

The NED pipeline project is currently in the pre-filing stage at the Federal Energy Regulatory Commission. Kinder Morgan is expected to file an application for a "certificate of public convenience and necessity" in September 2015. Once the certificate is granted, Kinder Morgan/Tennessee will have the ability to use federal eminent domain to acquire rights of way for the pipeline. We believe that 1) the "necessity" or need for this project is better addressed by competing projects that would require less taking of private and public land, 2) the capacity of the NED pipeline far exceeds the utility needs of New England, such that taking of land for NED is more for the benefit of its owners than to the benefit of New England gas consumers, and 3) the proposed pipeline route impacts protected conservation land, watersheds, and aquifers.

New England has an acknowledged need for additional energy sources to meet peak demand. In response, several companies have proposed projects to bring more natural gas to New England. These include Spectra Energy's Algonquin Incremental Market (AIM) line, which received FERC certification on March 3, 2015, their pending Atlantic Bridge line, increasing capacity to Maine and Canada, and the Kinder Morgan NED proposal. Taken together, the capacity of these proposed pipelines far exceeds New England's projected energy needs. The projects that truly use existing gas pipeline rights of way, such as Algonquin, should be favored over the projects that require extensive acquisition of new rights of way, such as NED.

Kinder Morgan describes the NED pipeline as mostly "co-located" with an existing power line easement owned by Eversource (formerly Public Service of NH). The term co-location falsely implies the pipeline will be entirely within the power line right of way, and thus have little impact on adjacent land. This is not the case. For technical reasons, the pipeline must be adjacent to, not under, the

350,000 volt powerline. Kinder Morgan must acquire approximately 100 feet of land *parallel* to the existing powerline easement. Therefore, the “co-location” of the pipeline has the same impact on private and public lands as it would if not co-located. In addition, about 10 miles of pipeline, such as the Mason lateral line, would not be “co-located” with any existing easement, increasing further the amount of private and public land that will have to be acquired.

Eminent domain is an extraordinary power that must be used sparingly. Other projects, such as the Spectra Energy's proposal to enlarge an existing pipeline, can bring a significant amount of natural gas to New England with far less impact to public and private landowners than the NED project. As a matter of public policy, projects requiring heavy use of eminent domain, such as NED, should be discouraged.

Most of the municipalities in the proposed NED pipeline route are rural communities that highly value their open space, rural character, and conservation land. The NED pipeline is routed through many tracts of land conserved by town conservation commission ownership, or conservation easements held by groups such as the Society for the Preservation of New Hampshire Forests. The taking of land through such parcels directly violates the terms of conservation easements, and contravenes the intent of the donors of conservation land.

The NED project will more deeply and directly impact wetlands and aquifers on the route than the existing powerlines do. Rivers must be tunneled under. Mats must be laid down in wetlands to support the weight of the excavating equipment. Herbicides, among other methods, will be used in the long-term to control vegetative growth, particularly in wetlands that machine mowing would damage. Public policy should discourage projects that heavily impact conservation lands, water resources, and environmentally sensitive areas.

For the foregoing reasons, we oppose the Kinder Morgan/Tennessee NED proposal. We urge you to contact the Federal Energy Regulatory Commission, Docket PF-114-22-00, and challenge the need for the NED pipeline in light of other less impactful pipeline proposals.

Is the proposed NED project “right” for New Hampshire? We do not believe so. If you do, please help us understand why. If not, please advise us of the steps you can take to ensure that it does not unnecessarily damage our state.

Sincerely,

Amherst -
[title]

Brookline -
[title]

Fitzwilliam -
[title]

Greenville -
[title]

Litchfield -
[title]

Mason -
[title]

Merrimack -
[title]

Milford -
[title]

Pelham -
[title]

Richmond -
[title]

Rindge -
[title]

Temple -
[title]

Troy -
[title]